

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

OSCAR TRINIDAD-RODRIGUEZ)

Defendant)

CRIMINAL NO. 00-001 (PG)

CLERK'S OFFICE
U.S. DISTRICT COURT
SAN JUAN, PR

05 OCT 21 PM 3:30

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**GOVERNMENTS' REQUEST FOR ADDITIONAL TIME
TO RESPOND TO DEFENDANT'S SENTENCING MEMORANDUM
AND A CONTINUANCE OF THE SENTENCING HEARING**

**TO THE HONORABLE JUAN ME. PEREZ GIMENEZ
UNITED STATES DISTRICT JUDGE
FOR THE DISTRICT OF PUERTO RICO**

COMES NOW the government of the United States of America, through its attorney, Patrick H. Hearn, Trial Attorney, United States Department of Justice, Criminal Division, Narcotic and Dangerous Drug Section, and respectfully requests the court grant the government additional time to respond to defendant's sentencing memorandum and a continuance of the sentencing hearing scheduled for Tuesday, October 25, 2005 at 9:15 a.m. for the following reasons,

1. The defendant filed a 13 page sentencing memorandum on October 13, 2005, which raised issues other than those originally addressed by this Court and the Court of Appeals prior to the Court of Appeals remanding the case for re-sentencing. Specifically, following the issuance of the Remand Order the United States Supreme Court issued its decision in U.S. v. Booker, 125 S. Ct. 738 (2005). As a result of the decision in Booker the defendant raises new sentencing

issues in his Sentencing Memorandum which the Government will need additional time to review and research in order to respond to the defendant's Sentencing Memorandum.

The defendant's Sentencing Memorandum also relies upon citations to sentencing transcripts, the pre-sentence report and docket entries. The government's attorney was not assigned to the case until after it had been remanded for re-sentencing and the previously assigned attorney, Steve Siegel, had left the Narcotic and Dangerous Drug Section. The government will need additional time to review the transcripts and pre-sentence report in preparing its response to the defendant's Sentencing Memorandum.

The Defendant's Sentencing Memorandum was appropriately faxed to the government's attorney's office on October 13th, 2005. However, the government's attorney was unable to begin reviewing the Sentencing Memorandum until Monday, October 17th. Also, the government's attorney first became aware of the October 25, 2005 sentencing hearing on October 21, 2005. Additionally, the government's attorney was out the office on business from Wednesday afternoon, October 19th, 2005 through October 20, 2005. The time between the receipt of the defendant's Sentencing Memorandum and the sentencing hearing has proven to be insufficient to allow the government to review and research the issues raised and to provide a written response for the Court and defendant regarding the government's position regarding the issues raised by the defendant in his motion and by Booker.

2. It is anticipated that the weather circumstances presented by Hurricane Wilma will prevent the government's attorney from flying to Puerto Rico for the Tuesday, October 25, 2005 hearing. Current weather projections for the path of Hurricane Wilma predict it will be at or near the Florida Keys and Southwest Florida on Sunday, October 23 and over Southern Florida, including Miami on Monday, October 24. The presence of Hurricane Wilma near or over

Southern Florida on October 23 and 24h will affect the flights through Miami and the State of Florida. Additionally, it is likely that flight cancellations will effectively delay or cancel flights along the entire Eastern seaboard of the United States. The government's attorney is located at the Narcotic and Dangerous Drug Section offices of the Department of Justice in Washington, D.C. The flight to Puerto Rico from Washington, D.C. requires changing planes in Miami on Monday, October 24. It is extremely likely that flights to Southern Florida including Miami will begin to be cancelled on Sunday, October 23 continuing through Monday, October 24, 2005. The government requests a continuance of the Sentencing Hearing due to the anticipated inability to travel to Puerto Rico due to Hurricane Wilma.

The government has contacted the defendant's attorney, Epifanio Morales Cruz, regarding the government's request for additional time and a continuance of the Sentencing Hearing. Mr. Morales informed the government that under ordinary circumstances he would not oppose the government's motion. However, Mr. Morales stated that his client, the defendant is traveling to Puerto Rico today, Friday, October 21, 2005, and Mr. Morales is unable to speak with him regarding the government's motion.

The government's attorney is not signed up for filing of documents through the Court's ECF filing system. The government is currently attempting to file the Government's Request for Additional Time and a Continuance of the Sentencing Hearing by ECF through the assistance of personnel in the U.S. Attorney's Office for the District of Puerto Rico. The government is providing it's motion to the court via a fax to the Court's chambers. The government would move the court for consideration of the motion while filing is pending through the ECF system. Additionally, a copy of the motion has been provided to defendant's attorney, Mr. Morales via

email.

Therefore, for the reasons previously stated the government respectfully requests until November 4, 2005, which is 14 days from today's date October 21, 2005, to respond to the defendant's Sentencing Memorandum and a Sentencing Hearing date approximately two weeks after November 4, 2005.

Dated: October 21, 2005.

Respectfully submitted,

THOMAS PADDEN
Acting Chief
Narcotic and Dangerous Drug Section Criminal
Division
United States Department of Justice
Washington, D.C.

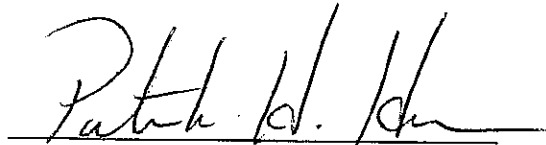
By: 

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Attorney for Plaintiff
United States of America

CERTIFICATE OF SERVICE

I HEREBY CERTIFY The government's Motion for Additional Time and a Continuance of the Sentencing Hearing and Proposed Order were sent to defendant's attorney, Epifanio Morales Cruz, vial email on October 21, 2005.

A handwritten signature in black ink, appearing to read "Patrick H. Hearn", written over a horizontal line.

PATRICK H. HEARN

Trial Attorney

U.S. Department of Justice

Narcotic and Dangerous Drug Section

Washington, D.C.